

SENATE BILL 2222
By Haun

AN ACT to amend Tennessee Code Annotated, Title 50 and Title 56, relative to workers' compensation insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-402(b) and (c), are repealed.

SECTION 2. Tennessee Code Annotated, Section 56-5-302, is amended by adding new subsections (12), (13) and (14), as follows:

(12) "Advisory Prospective Loss Costs" means historical aggregate losses and loss adjustment expenses projected through development to their ultimate value and through trending to a future point in time. Advisory Prospective Loss Costs shall not include provisions for profit or for expenses other than loss adjustment expenses.

(13) "Rate" includes advisory prospective loss costs.

(14) "Multiplier" means a workers' compensation insurance company's determination of the expenses, other than loss expense and loss adjustment expense, associated with writing workers' compensation insurance, which shall be expressed as a single non-integral number to be applied equally and uniformly to the advisory prospective loss costs approved by the commissioner in making rates for each classification of risks utilized by such company.

SECTION 3. Tennessee Code Annotated, Section 56-5-303(a), is amended by deleting such subsection in its entirety and by substituting the following:

(a) Rates: (1) shall not be excessive, inadequate or unfairly discriminatory or, (2) in the case of an advisory prospective loss cost filing, shall reasonably reflect projected losses and loss adjustment expenses.

SECTION 4. Tennessee Code Annotated, Section 56-5-306(b), is amended by deleting such subsection in its entirety and by substituting the following:

(b)(1) With respect to workers' compensation insurance, every insurer shall file with the commissioner all rates, supplementary rate information, supporting information, policy forms and endorsement for use in this state. Any communication purporting to be a filing and not containing all of the information required in this section shall not constitute a filing and the commissioner shall inform the person sending such a communication within thirty (30) days of its receipt of such fact and of the need for additional information, and shall set forth a specific description of the information needed. Such a communication shall be deemed to be a filing when such information is furnished or when the person making the filing shall certify to the commissioner that such information is not maintained by such person or cannot be reasonably developed. The commissioner may give written notice within thirty (30) days of the filing, that the commissioner needs additional time, not to exceed thirty (30) days from the date of such notice, to consider the filing.

(2) A workers' compensation insurance rate service organization may file a rate applicable only to policies issued through a residual market mechanism, and in such event such rate shall be subject to the procedures set forth in subparagraph (b)(1) hereof. The commissioner shall act upon any such rate filing as quickly as practical.

SECTION 5. Tennessee Code Annotated, Section 56-5-306, is amended by adding new subsections (c) and (d) to read as follows:

(c) With respect to workers' compensation insurance, a workers' compensation insurance rate service organization designated by one or more insurers shall develop

and file for approval with the commissioner in accordance with the provisions of this section, a filing on behalf of authorized insurers containing advisory prospective loss costs and supporting actuarial and statistical data for workers' compensation insurance. An advisory prospective loss costs filing shall become effective when approved by the commissioner, who shall approve or disapprove the filing as soon as reasonably practical after the filing has been made. An advisory prospective loss costs filing shall be deemed to meet the requirements of this part and to become effective unless disapproved by the commissioner within thirty (30) days after the date on which it is received; provided, however, the commissioner may give notice within thirty (30) days of the receipt of such filing that the commissioner needs additional time, not to exceed thirty (30) days from the date of such notice, to consider the filing, and in such event the filing shall become effective upon the expiration of such additional waiting period unless earlier approved or disapproved by the commissioner. Each workers' compensation insurer, or group of insurers under common ownership, shall individually file with the commissioner all workers' compensation insurance rates, supplementary rate information, supporting information, its multiplier, policy forms and endorsements not later than fifteen (15) days after the effective date.

(d) Notwithstanding any other provision of law, a workers' compensation insurance rate service organization designated by one or more insurers is authorized to make a rate filing applicable to policies issued pursuant to the residual market mechanism established for workers' compensation insurance under Tennessee Code Annotated, Section 56-5-314.

SECTION 6. Tennessee Code Annotated, Section 56-5-307(d), is amended by deleting such subsection in its entirety and by substituting instead the following:

(d)(1)(A) The filings required by Tennessee Code Annotated, Sections 56-5-305 and 56-5-306, including advisory prospective loss costs, other than rates for policies

issued pursuant to any residual market mechanism for workers' compensation insurance established under Tennessee Code Annotated, Section 56-5-314, may be made by a rate service organization designated by an insurer.

(B) The filings required by Tennessee Code Annotated, Section 56-5-306 for rates for policies issued pursuant to any residual market mechanism established under Tennessee Code Annotated, Section 56-5-314, for workers' compensation insurance shall be made by a rate service organization designated by the commissioner.

(2) An insurer may make a filing in compliance with Sections 56-5-305 and 56-5-306, and by giving written notice to the commissioner that the insurer is following rates as filed by a rate service organization in a particular line with any exceptions clearly set forth as are necessary to fully inform the commissioner.

SECTION 7. Tennessee Code Annotated, Section 56-5-308(a) and (b), are amended by deleting such subsections in their entireties and by substituting the following:

(a) The commissioner shall disapprove a rate if: (1) the commissioner finds that the rate is excessive, inadequate or unfairly discriminatory, or (2) in the case of an advisory prospective loss costs filing, the commissioner finds such filing does not reasonably reflect projected losses, including loss adjustment expenses.

(b)(1) If the commissioner disapproves a filing, the commissioner shall issue a written order specifying in what respect that the rate proposed in such filing is excessive, inadequate, or unfairly discriminatory or otherwise falls to meet the requirements of this part. The person making such filing shall be given a hearing upon written request made within thirty (30) days after the disapproval order.

(2) If the commissioner disapproves rates already in effect, the commissioner shall issue such an order after a hearing held on not less than twenty (20) days written notice to the insurer or rate service organization which made the filing. The order shall

be issued within fifteen (15) days after the close of the hearing and shall specify in which respect the rates fail to meet the requirements of this part. The order shall also state when, with a reasonable period of time, but not less than forty- five (45) days, the further use of such rate in contracts of insurance made thereafter shall be prohibited. The order may include a provision for premium adjustment for policies issued, renewed or nonrenewed after the effective date of such order.

SECTION 8. Tennessee Code Annotated, Section 56-5-313, is amended by deleting such section in its entirety and substituting instead the following:

Except as provided in this chapter, no insurer may agree with any other insurer or with a rate service organization or an advisory organization to adhere to or use any rate or supplementary rate information. The fact that any insurer adheres to or uses such material is not sufficient in itself to support a finding that an agreement to adhere or use exists but may be used for the purpose of supplementing other evidence as to the existence of such agreement. Two (2) or more insurers having common ownership or operating in this state under common management or control may act in concert between or among themselves in the same manner as if they constitute a single insurer.

SECTION 9. Tennessee Code Annotated, Title 56, Chapter 5, is amended by adding the following new section:

Section _____. (a) The commissioner shall designate a rate service organization to assist him in gathering, compiling and reporting relevant workers' compensation insurance statistical information. Every workers' compensation insurance experience to such designated rate service organization as set forth in the uniform statistical plan approved by the commissioner.

(b) Each workers' compensation insurer shall be a member of the workers' compensation insurance rate service organization. Each workers' compensation insurer shall adhere to the policy forms filed by such designated rate service organization.

(c) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating plan that has been filed with the commissioner by such designated rate service organization and approved by the commissioner.

(d) Subject to the approval of the commissioner, the rate service organization shall develop and file rules reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan and the uniform classification system.

SECTION 10. Tennessee Code Annotated, Title 56, Chapter 5, is amended by adding the following new section.

Section _____. (a) Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(b) In order to further conform administration of rate regulatory laws, the commissioner and every insurer and the advisory organization designated by the commissioner may exchange information and experience data with insurance supervisory officials, insurers and advisory organization in other states and may consult with them with respect to rate making and the application of rating systems.

(c) Cooperation among advisory organizations, or among advisory organizations and insurers in rate making or in other matters within the scope of this chapter is authorized, but the filings resulting from such cooperation are subject to all provisions of this chapter. The commissioner may review such cooperative activities and practices and, if after a hearing any such activity or practice is found to violate the provisions of this chapter, a written order may be issued specifying that such activity or practice violates the provision of this chapter and requiring the discontinuance of such activity.

SECTION 11. Nothing in Sections 1 through 10 of this act shall apply to pooling agreements described in Tennessee Code Annotated, Section 50-6-405(c).

SECTION 12. Should any court of competent jurisdiction declare any section, clause, or provision of this act to be unconstitutional, illegal, or unenforceable for any reason, such decision shall affect only such section, clause, or provision so declared unconstitutional, illegal, or unenforceable, and shall not affect any other section, clause or provision of this act, it being the intent of the legislature that all other provisions of this act remain in full force and effect.

SECTION 13. This act shall take effect on becoming law, the public welfare requiring it.

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